



State of Missouri

DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS AND PROFESSIONAL REGISTRATION

IN RE:)
)
 TROY ALAN LITICKER,) Case No. 141110731C
)
 Applicant.)

ORDER REFUSING TO ISSUE **A MOTOR VEHICLE EXTENDED SERVICE CONTRACT PRODUCER LICENSE**

On November 20, 2014, the Consumer Affairs Division submitted a Petition to the Director alleging cause to refuse the motor vehicle extended service contract producer license application of Troy Alan Liticker. After reviewing the Petition and Investigative Report, the Director issues the following findings of fact, conclusions of law, and Order:

FINDINGS OF FACT

1. Troy Alan Liticker ("Liticker") is a Missouri resident with a residential address of record of 203 Oakleaf Dr, St. Charles, MO 63301.
2. On September 11, 2014, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received Liticker's completed Application for Motor Vehicle Extended Service Contract Producer License ("Application").
3. Liticker answered "No" to Background Information question 36.4 of the Application which asked:

Have you failed to pay state or federal income tax?

Have you failed to comply with an administrative or court order directing payment of state or federal income tax?

Answer "Yes" if the answer to either question (or both) is "Yes."

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each administrative or court order,

- b) copies of all relevant documents (i.e. demand letter from the Department of Revenue or Internal Revenue Service, etc.),
- c) a certified copy of each administrative or court order, judgment, and/or lien, and
- d) a certified copy of the official document which demonstrates the resolution of the tax delinquency (i.e. tax compliance letter, etc.).

4. The Applicant's Certification and Attestation section of the Application, which Liticker accepted by his signature notarized September 8, 2014, provides, in relevant part:

I hereby certify, under penalty of perjury, that all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.

5. The Consumer Affairs Division ("Division") of the Department conducted an investigation and discovered, contrary to Liticker's sworn representation on his Application, that on March 14, 2011, the St. Charles County Circuit Court entered a judgment against Liticker for \$1,262.17 of unpaid Missouri individual income tax for the filing period 2004. The judgment remains unsatisfied. *Dep't of Revenue v. Troy A. Liticker*, St. Charles Co. Cir. Ct., Case No. 1111-MC01358.
6. On September 15, 2014, Andrew Engler, a Special Investigator with the Division ("Special Investigator Engler"), mailed Liticker a first inquiry letter by first-class mail, postage prepaid, requesting information and documentation regarding Liticker's tax delinquency and advising him that "[p]ursuant to 20 CSR 100-4.100, your response is due twenty days from the postmark of this letter, or on or before October 5, 2014. Failure to respond could result in a refusal to issue your [motor vehicle extended service contract producer] license."
7. The first inquiry letter was not returned to the Division as undeliverable; therefore, Liticker is presumed to have received it.
8. On September 24, 2014, Liticker called the Division and advised Special Investigator Engler that he would contact the Missouri Department of Revenue to resolve the tax delinquency. Special Investigator Engler requested that Liticker subsequently forward a copy of a tax compliance letter, as requested by Background Information question 36.4 of the Application and the first inquiry letter.

9. The Division never received a tax compliance letter or further communication from Liticker regarding the first inquiry letter, and Liticker did not demonstrate a reasonable justification for the delay.
10. On October 6, 2014, Special Investigator Engler mailed a second inquiry letter by first-class mail, postage prepaid, requesting substantially the same information and documentation as the first inquiry letter. The second inquiry letter further advised Liticker that his response was due by October 26, 2014 and that failure to respond could result in a refusal to issue Liticker a motor vehicle extended service contract ("MVESC") producer license.
11. The second inquiry letter was not returned to the Division as undeliverable; therefore, Liticker is presumed to have received it.
12. The Division never received any communication from Liticker regarding the second inquiry letter, nor did Liticker demonstrate a reasonable justification for the delay.
13. It is inferable, and hereby found as fact, that Liticker answered "No" to Background Information question 36.4 of the Application in order to misrepresent to the Director that he had not failed to pay income tax and, accordingly, to improve the chance that the Director would act favorably on his Application and issue Liticker a MVESC producer license.

CONCLUSIONS OF LAW

14. Section 385.209.1, RSMo (Supp. 2013),¹ provides, in relevant part:

The director may suspend, revoke, refuse to issue, or refuse to renew a registration or license under sections 385.200 to 385.220 for any of the following causes, if the applicant or licensee or the applicant's or licensee's subsidiaries or affiliated entities acting on behalf of the applicant or licensee in connection with the applicant's or licensee's motor vehicle extended service contract program has:

* * *

(2) Violated any provision in sections 385.200 to 385.220, or violated any rule, subpoena, or order of the director;

(3) Obtained or attempted to obtain a license through material misrepresentation or fraud; [or]

¹ All statutory references are to the 2000 Missouri Revised Statutes, as updated by the 2013 RSMo Supplement, unless otherwise noted.

* * *

(13) Failed to comply with any administrative or court order directing payment of state or federal income tax[.]

15. Title 20 CSR 100-4.100(2)(A) provides:

Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

16. "There is a presumption that a letter duly mailed has been received by the addressee." *Clear v. Missouri Coordinating Bd. for Higher Educ.*, 23 S.W.3d 896, 900 (Mo. App. E.D. 2000) (internal citation omitted).

17. Just as the principal purpose of § 375.141, the insurance producer disciplinary statute, is not to punish licensees or applicants, but to protect the public, *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo. App. E.D. 1984), the purpose of § 385.209 is not to punish applicants for MVESC producer licensure, but to protect the public.

18. The Director may refuse to issue a MVESC producer license to Liticker pursuant to § 385.209.1(2) because Liticker violated a rule of the Director, specifically 20 CSR 100-4.100(2)(A), when he failed to mail adequate responses two inquiry letters and failed to demonstrate reasonable justification for the delays.

19. The Director may refuse to issue a MVESC producer license to Liticker pursuant to § 385.209.1(3) because Liticker has attempted to obtain a MVESC producer license through material misrepresentation or fraud by his false answer to Background Information question 36.4 of the Application, claiming that he had never failed to pay income tax.

20. The Director may refuse to issue a MVESC producer license to Liticker pursuant to § 385.209.1(13) because Liticker has failed to comply with an administrative or court order directing payment of state income tax, as evinced by the unsatisfied judgment against him in *Dep't of Revenue v. Troy A. Liticker*, St. Charles Co. Cir. Ct., Case No. 1111-MC01358.

21. The Director has considered Liticker's history and all of the circumstances surrounding Liticker's Application. Issuing Liticker a MVESC producer license would not be in the interest of the public. Accordingly, the Director exercises his discretion and refuses to issue Liticker a MVESC producer license.
22. This Order is in the public interest.

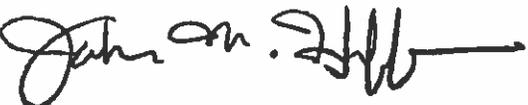
ORDER

IT IS THEREFORE ORDERED that the motor vehicle extended service contract producer license application of Troy Alan Liticker is hereby **REFUSED**.

SO ORDERED.

WITNESS MY HAND THIS 24 DAY OF November, 2014.





JOHN M. HUFF
DIRECTOR

NOTICE

TO: Applicant and any unnamed persons aggrieved by this Order:

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission of Missouri, P.O. Box 1557, Jefferson City, Missouri, within 30 days after the mailing of this notice pursuant to Section 621.120, RSMo. Pursuant to 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of November, 2014, a copy of the foregoing Order and Notice was served upon the Applicant in this matter by UPS, signature required service, at the following address:

Troy Alan Liticker
203 Oakleaf Drive
Saint Charles, Missouri 63301-5202

No. 1Z0R15W84298017483



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